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**DOW, LOHNES & ALBERTSON, PLLC**  
ATTORNEYS AT LAW

**ORIGINAL**

**SCOTT S. PATRICK**  
DIRECT DIAL 202-776-2885  
spatrick@dlalaw.com

**WASHINGTON, D.C.**  
1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802  
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

ONE RAVINIA DRIVE • SUITE 1600  
ATLANTA, GEORGIA 30346-2108  
TELEPHONE 770-901-8800  
FACSIMILE 770-901-8874

October 19, 2000

**VIA COURIER**

Magalie Roman Salas, Esquire  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

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OCT 19 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Salas:

On behalf of KPAX Communications, Inc., licensee of KPAX-TV, Missoula, Montana, there are transmitted herewith an original and five copies of its *Petition for Rule Making* proposing the substitution of channel 7 for channel 35 as the station's paired DTV allocation.

If any additional information is needed in connection with this matter, please contact me.

Respectfully submitted,



Scott S. Patrick

Enclosure

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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OCT 19 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.622(b) )  
Table of Allotments, )  
Digital Television Broadcast Stations )  
(Missoula, Montana) )  
 )

MM Docket No. \_\_\_\_\_  
RM- \_\_\_\_\_

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**PETITION FOR RULE MAKING**  
**TO AMEND THE DTV TABLE OF ALLOTMENTS**

KPAX Communications, Inc. ("KPAX"), licensee of KPAX-TV, Missoula, Montana, by its attorneys and pursuant to Sections 1.401 and 73.622(a) of the Commission's Rules (47 C.F.R. §§1.401 and 73.622(a)), hereby respectfully petitions the Commission to institute a rulemaking to amend Section 73.622(b), the DTV Table of Allotments, by substituting channel 7 as the station's paired DTV allocation for the transition period in lieu of channel 35, as originally allotted. Specifically, the DTV Table of Allotments would be amended as follows:

	<b><u>Present</u></b>	<b><u>Proposed</u></b>
Missoula, MT	*27, <u>35</u> , 36, 40	<u>7</u> , *27, 36, 40

Issuance of a Notice of Proposed Rule Making would be consistent with the Commission's rules and policies that are designed to assist smaller market stations in recognition of the special burden that the implementation of digital television places on them – the most

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prominent being the staggered DTV construction schedule.<sup>1</sup> Recognizing the intricacies of DTV operations and the need for stations to maximize service efficiently, the Commission also has promised to provide broadcasters with flexibility in developing alternate allotment proposals.<sup>2</sup>

KPAX-TV serves the Missoula, MT DMA, ranked 171st in the United States.<sup>3</sup> As set forth in greater detail in the attached Engineering Statement, the proposed substitution of the VHF channel adjacent to the station's NTSC Channel 8 would permit KPAX to reduce the impact of DTV build-out and operating costs by permitting the sharing of certain transmission equipment and facilities. Importantly, operation on the VHF channel would improve signal coverage for viewers in the Missoula, MT DMA, ensuring effective service replication. Additionally, the channel substitution would eliminate any adjacent channel interference problems with KTMF-DT (DTV Channel 36), which also serves Missoula. Accordingly, the public interest would be served through enhanced service and more efficient use of the broadcast spectrum.

As demonstrated in the Engineering Statement, KPAX-DT's proposed service area encompasses the community of license as required,<sup>4</sup> and the proposed allotment parameters conform with the Commission's *de minimis* interference standard.<sup>5</sup> Additionally, there would be no impact to any co-channel low power television and translator stations, including any which may upgrade to Class A status.

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<sup>1</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Fifth Report and Order*, MM Docket 87-268, 12 FCC Rcd 12809, ¶78 (1997).

<sup>2</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, *Sixth Report and Order*, MM Docket 87-268, 12 FCC Rcd 14588, ¶172 (1997).

<sup>3</sup> Broadcasting & Cable Yearbook 2000, B-208 (2000).

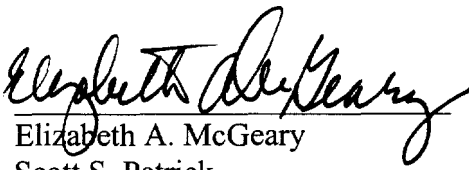
<sup>4</sup> 47 C.F.R. §73.623(c)(1).

<sup>5</sup> 47 C.F.R. §73.623(c)(2).

Accordingly, for the reasons set forth above, KPAX respectfully requests that the Commission initiate a rule making proceeding to amend Section 73.622(b) of its Rules to substitute channel 7 for channel 35 for use by KPAX-DT in Missoula, Montana. The amendment would serve the public interest because the proposed change would enable KPAX to provide better coverage and would result in a more efficient use of the broadcast spectrum.

Respectfully submitted,

KPAX COMMUNICATIONS, INC.

By:   
Elizabeth A. McGeary  
Scott S. Patrick

Its Attorneys

Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Suite 800  
Washington, D.C. 20036-6802  
(202) 776-2000

Dated: October 19, 2000

**ATTACHMENT**

**Engineering Statement**

ENGINEERING STATEMENT  
PETITION FOR RULE MAKING  
SECTION 73.622 OF THE FCC RULES  
TO CHANGE DTV CHANNEL  
ON BEHALF OF  
KPAX COMMUNICATIONS, INC.  
KPAX-TV, MISSOULA, MONTANA

OCTOBER 2000

COHEN, DIPPELL AND EVERIST, P.C.  
CONSULTING ENGINEERS  
RADIO AND TELEVISION  
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington            )  
  ) ss  
District of Columbia         )

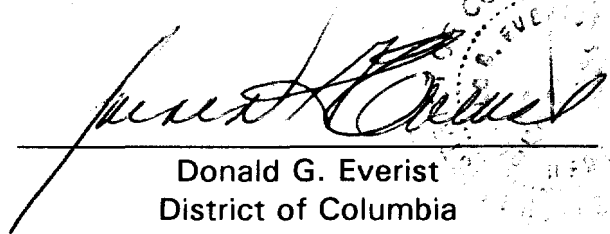
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;


That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

  
Donald G. Everist  
District of Columbia  
Professional Engineer  
Registration No. 5714

Subscribed and sworn to before me this 13<sup>th</sup> day of October, 2000.

  
Notary Public

My Commission Expires: 2/28/2003

COHEN, DIPPELL AND EVERIST, P. C.

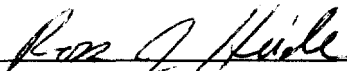
City of Washington            )  
  ) ss  
District of Columbia         )

Ross J. Heide, being duly sworn upon his oath, deposes and states that:

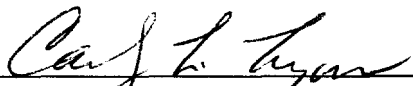
He is a graduate of the Massachusetts Institute of Technology in Operations Research and Management Science, and is a staff engineer of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.

  
\_\_\_\_\_  
Ross J. Heide  
District of Columbia

Subscribed and sworn to before me this 13<sup>th</sup> day of October, 2000.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 2/28/2003





This engineering statement has been prepared on behalf of KPAX Communications, Inc., licensee of Television Station KPAX-TV, Missoula, Montana, is assigned NTSC Channel 8. It is proposed to change the current digital television channel allotment contained in Section 73.622 of the FCC Rules from UHF Channel 35 to VHF Channel 7 with an ERP of 28 kW. 28 kW is the maximum VHF-DT ERP in Zone II for the proposed HAAT of 622.7 meters. The resulting service area encompasses the entire community of license.

This request is supported by an analysis of the impact of this proposal on other authorized NTSC stations, DTV stations, and other proposed DTV allotment changes. An allocation analysis has been performed using the Federal Communications Commission OET Bulletin 69 dated July 2, 1997 and the FCC supplemental processing guidelines dated August 1998. The analysis was performed by using the FCC Longley-Rice model adapted for use for an INTEL computer. The results of this adapted program have been compared to other known FCC studies and have been found to give comparable results.

<u>DTV Channel</u>	<u>Effective Radiated Power (kW)</u>	<u>Height Above Average Terrain (meters)</u>
<u>Existing DTV Table of Allotments, Page B-34<sup>1</sup></u>		
35	1000	655
<u>Proposed DTV Facilities</u>		
7	28	622.7

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<sup>1</sup>In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket No. 87-268, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (FCC 98-24), 2/12/98.

Table I shows the stations to be considered according to the processing guidelines<sup>2</sup>. None of the stations are predicted to receive more than 2% new interference from the proposed Channel 7 operation. Also, none of these stations exceed the allowed cumulative interference level of 10%. Stations that exceed the minimum geographic spacing requirements for new stations<sup>3</sup> are presumed to have zero or much less than de minimis interference. For the proposed Channel 7 operation, all stations listed in the FCC data base (CDBS 9/8/00) are fully spaced except for KSPS-TV, Channel 7, Spokane, Washington, and the petition for rule making of KRTV-DT, Channel 7, Great Falls, Montana.

Further, an examination of co-channel low-power television and translator stations within 50 km has been performed. No other low-power or translator station is found that requires further consideration. Therefore, it is believed that the request for DTV channel will be consistent with the FCC Rules. In addition, a review of the Class A list of those stations qualifying for a certificate of eligibility find that no potential Class A station needs to be considered with this request to amend Section 73.622 of the FCC Rules.

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<sup>2</sup>"Additional Application Processing Guidelines for Digital Television (DTV)", Public Notice 84889 (August 10, 1998).

<sup>3</sup>47 C.F.R., Section 73.623(d).

COHEN, DIPPELL AND EVERIST, P.C.

TABLE I  
POTENTIAL INTERFEREES OF  
KPAX-DT, MISSOULA, MONTANA  
CHANNEL 7, 28 KW, 622.7 METERS  
OCTOBER 2000

<u>NTSC</u>	<u>Channel</u>	<u>Status</u>	<u>City/State</u>	<u>Power</u> kW	<u>Bearing/Distance</u> <u>from KPAX-DT</u>	<u>New Interference*</u>
KSPS-TV	7	Lic.	Spokane, WA	316	285°/256 km	0.0%
KBZK-TV	7	Lic.	Bozeman, MT	43.7	121°/285 km	fully-spaced
KTVB(TV)	7	Lic.	Boise, ID	195	205°/398 km	fully-spaced
KPAX-TV	8	Lic.	Missoula, MT	275	0°/0 km	collocated, 0.0%
<u>DTV</u>						
KRTV-DT	7	PRM	Great Falls, MT	160	73°/214 km	0.0%
KFFB-DT	8	PRM	Great Falls, MT	160	73°/214 km	fully-spaced

Source: FCC CDBS 9/8/00

\*Stations that exceed the minimum geographic spacing requirements for new stations [§73.623(d)] are presumed to receive much less than de minimis interference.

COHEN, DIPPELL AND EVERIST, P. C.